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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

January 15, 1999

EX PARTEVIA HAND DELIVERY

The Honorable William E. Kennard
Chairman
Federal Communications Commission
445 12th Street, S.W.
Suite 8B201
Washington, D.C. 20024

Re: Deployment of Advanced Services (CC Docket 98-147)

Dear Chairman Kennard:

On November 3, 1998, the undersigned and several other employees of MCI WorldCom, Inc. ("MCI WorldCom") met with various Commission staff members to discuss issues related to the above-referenced proceeding. During that meeting, Commission staff sought MCI WorldCom's views on a proposal to allow the Bell Operating Companies ("BOCs") to provide advanced telecommunications services across Local Access and Transport Area ("LATA") boundaries without first obtaining the right to offer in-region interLATA services under section 271 of the Telecommunications Act of 1996 ("1996 Act").

In response to staff's verbal request, David Porter of MCI WorldCom submitted an ex parte letter dated November 9, 1998 detailing the ubiquitous presence of two or more fiber-optic-based interexchange carriers ("IXCs"), and four or more Internet backbone providers, in virtually every LATA in the United States. See Letter from David N. Porter, Vice President, Government Affairs, MCI WorldCom, to Magalie Roman Salas, Secretary, FCC, CC Docket No. 98-147, dated November 9, 1998. As Mr. Porter explained in his letter, these results show that the competitive marketplace already is providing interLATA transport in virtually every LATA in the country, thus demonstrating that anything more than de minimis LATA boundary changes would be completely unwarranted.

In further response, and as a follow-up to that November 9th filing, MCI WorldCom submits the instant letter describing why the Commission lacks the statutory authority, and any sound policy basis, to grant any of the various BOC proposals for interLATA relief, including creation of a statewide data LATA. This letter also shows that, in light of the current record in this proceeding, the BOCs have failed to demonstrate how such a proposal would promote the ubiquitous deployment of advanced services.

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The Law Prohibits All But Extremely Limited LATA Boundary Modifications

A. Section 10(d) Prohibits Any InterLATA Relief For The BOCs Unless And Until Section 271 Is Fully Implemented

Section 271(a) of the 1996 Act states in no uncertain terms that neither a BOC nor "any affiliate" of a BOC can provide interLATA services "except as provided in this section." 47 U.S.C. Section 271(a) (emphasis added). Thus, at the outset, only section 271 governs whether and when the BOCs, and any of their affiliates, will be able to provide interLATA services; no other provision of the Act can alter the reach of section 271. Section 271(b)(1) further specifies that a BOC and "any affiliate" of the BOC can only provide in-region interLATA services after the FCC approves a section 271 application. 47 U.S.C. Section 271(b)(1). Outside Commission approval of a section 271 application, then, the BOCs cannot provide in-region interLATA services, and this stricture applies equally to any BOC affiliates as well. Indeed, section 271 would be rendered entirely meaningless if it were interpreted as allowing the BOCs to do what the law forbids simply by eliminating existing LATA boundaries, or employing an unregulated "separate" affiliate.

Other provisions in section 271, by delineating specific, narrow exceptions to the general interLATA prohibition, lend additional support to the notion that the prohibition itself must be construed broadly. For example, sections 271(b)(3) and 271(g) expressly address the limited extent to which a BOC may provide service across LATA boundaries without first satisfying the requirements of section 271. Particularly relevant is section 271(g)(2), which allows BOCs to provide across LATA boundaries "Internet services over dedicated facilities to or for elementary and secondary schools." 47 U.S.C. Section 271(g)(2). Congress cautioned that these and similar narrowly-focused exceptions listed in section 271(g) "are intended to be narrowly construed." 47 U.S.C. Section 271(h).

Although section 271 stands alone as the sole authority for the BOCs to be able to provide in-region interLATA services, the BOCs have pointed to section 10 of the Act as giving the Commission authority to forbear from applying any of the provisions of the Act if, among other factors, the Commission finds that such forbearance would help promote competition. 47 U.S.C. Section 160(a). However, section 10(d) expressly limits this forbearance authority by prohibiting the Commission from forbearing from enforcement of sections 251(c) or 271 of the Act until their requirements have been "fully implemented." 47 U.S.C. Section 160(d). In other words, the FCC has no authority to allow the BOCs to evade the fourteen point checklist, public interest test, and section 272 separation and nondiscrimination requirements through a "back door" forbearance petition.

At least one party, NTIA, has suggested that the Commission has the authority to forbear from regulating ILEC services on a service-by-service basis. NTIA

opines that section 251(c) (and presumably section 271) can be deemed "fully implemented," as required by section 10(d), for a specific class of services, such as "advanced" services, as long as the ILECs give CLECs nondiscriminatory access to the network elements necessary to deploy such services.¹ An obvious response is that this service-by-service approach is found nowhere in the Act. Like both section 251(c) and section 271, section 10(d) makes no distinctions between "traditional" local services and so-called "advanced" local services. Instead, section 10(d) states that the FCC cannot forbear from applying "the" requirements of section 251(c) until "those" requirements have been "fully implemented." As a result, this provision does not authorize the FCC to forbear from applying a few, or some, or most section 251(c) requirements -- or, in this context, section 271 prohibitions -- and certainly does not contemplate partial implementation of either section 251(c) or section 271. Section 10(d) cannot be more clear: the FCC is in no position to give the ILECs any short-cuts from meeting each and every statutory requirement contained in sections 251(c) and 271.

Given this solid precedent, then, it was no surprise that the Commission's Advanced Services Order and NPRM rejected out-of-hand the BOCs' requests for forbearance from application of section 271 to advanced services. Advanced Services Order at para. 78. The Commission correctly found that section 10(d) created an outright prohibition against forbearance from applying the requirements of section 271 unless and until they have been fully implemented. No BOC filings have attempted to work within the reality of this statutory framework.

B. Section 3(25) Allows Only Very Limited Modifications Of Existing LATA Boundaries

Faced with the prohibition on interLATA services contained in section 271, and the strict limitation on forbearance in section 10(d), the BOCs now have shifted gears to proffer yet another supposed source of statutory authority to undermine section 271. Section 3(25) of the 1996 Act defines a "LATA" in terms of the geographic areas established before enactment of the 1996 Act, except as authorized by the AT&T Consent Decree, or the Modified Final Judgment ("MFJ"). 47 U.S.C. Section 153(25)(A) (1998). The definition also includes, in the alternative, boundaries that are "established or modified" by a BOC, and approved by the Commission. 47 U.S.C. Section 153(25)(B). The Common Carrier Bureau has found that this alternative statutory definition does no more than give the Commission the same authority that the district court exercised in adjusting LATA boundaries under the MFJ. Petition for Declaratory Ruling Regarding US West Petitions to Consolidate LATAs in Minnesota and Arizona, NSD-L-97-6, Order, 12 FCC Rcd 4738, 4748

¹ Letter from Larry Irving, NTIA, to William Kennard, FCC, CC Docket No. 98-147, dated January 11, 1998, at 3 ("Irving Ex Parte Letter").

(Common Carrier Bureau, 1997) ("US West LATA Order").

Although the actual text of section 3(25) and the legislative history shed little light on its precise meaning, that meaning becomes all too clear after reviewing the context provided by the other statutory provisions of the 1996 Act, the MFJ precedent, recent Commission decisions, and sound policy. This context demonstrates the extremely limited circumstances under which the Commission would be authorized to modify existing LATA boundaries.

The 1996 Act

First, given the exclusive terminology employed in section 271, and its importance in the Act's market-opening goals, section 3(25) cannot be read as an open-ended means of evading section 271. The Common Carrier Bureau recently found that section 271 itself cannot be read to permit wholesale, or even piecemeal modification to LATA boundaries. In the US West LATA Order, the Bureau responded to US West's claim that the state should be allowed to establish state-wide LATA boundaries by finding that "intrastate LATA boundaries continue to serve a pro-competitive purpose." 12 FCC Rcd at 4751. Indeed the Bureau observed that:

...the intrastate interLATA market is an essential component of the structured federal scheme contemplated in Section 271 of the Act because the possibility of BOC participation in this market should act as a powerful incentive for BOCs to open up the local market. It would be contrary to congressional intent, and would vitiate much of the incentive offered under Section 271 of the Act for the Commission to condone an interpretation of the [local competition rules] that would allow states to eliminate the intrastate interLATA market.

12 FCC Rcd at 4752.

The Common Carrier Bureau also has recognized that section 10(d) -- the restriction on the FCC's authority to forbear until section 271 has been fully implemented -- "limits the manner in which the Commission may exercise its sole and exclusive authority to approve the establishment or modification of LATA boundaries." US West LATA Order, 12 FCC Rcd at 4751. Rejecting a US West request to allow state public service commissions to alter existing LATA boundaries to create statewide LATAs, the Bureau commented that "the restrictions of Section 10(d) would have prohibited the Commission from granting the request until such time as US West had entirely satisfied the requirements of Section 271." Id. This decision indicates that,

as one example, the Bureau already has ruled out broadscale relief, such as the creation of state-wide LATAs, as directly violative of section 10(d).

Further, under the 1996 Act, Congress gave the states a crucial statutory role to play in evaluating whether the BOCs should be able to offer services across LATA boundaries. This is not surprising, as many states are comprised of multiple LATAs. As a result, a grant of authority under section 271 has specific consequences for in-state competition. In a world in which LATA boundaries would be made entirely coincident with state boundaries, it is problematic whether there would have been any policy reason to include states in the Section 271 process in any significant fashion. If Congress had intended to allow the FCC to utilize section 3(25)(B) as a means of rewriting the existing boundaries suggested by the BOCs, the FCC would be eliminating the very reason for state participation in the 271 process itself. MCI WorldCom believes that, under the Act, the state commissions have a critical statutory role in evaluating whether the BOCs within their states should be able to offer services across LATA boundaries within their states. The Act cannot be read to give the FCC sole authority to eviscerate that role by granting "modifications" under section 3(25).

In addition, the BOCs' position overlooks one provision of Section 271 which is completely intertwined with existing LATA boundaries -- the provision mandating toll dialing parity. Section 271(e)(2) requires each BOC to provide dialing parity throughout a state, coincident with the BOC's exercise of its interLATA authority. Obviously the impact of this provision is LATA-driven. If the LATAs are enlarged to state boundaries for data purposes, one can assume that the BOCs then would argue that they are not engaged in interLATA communications, and therefore have not triggered any requirements for toll dialing parity. This result would run directly counter to the statutory language, which contemplates that toll dialing parity is required if the BOCs are offering services statewide.

Thus, the Commission's authority to establish or modify LATA boundaries must be construed in conjunction with other statutory provisions, including sections 271 and 10(d) of the Act.

The MFJ Court's Limited Modifications

While the substantive provisions of the 1996 Act define the limits of the Commission's authority to approve LATA modifications, the case law under the MFJ makes clear the very narrow kinds of "modifications" that Congress had in mind. Under the MFJ, the district court granted limited LATA relief to enable localities that share a community of interest, but are separated by a LATA boundary, to receive a flat-rated, non-optional local exchange service. In fact, the MFJ court granted such waivers only when the competitive effects were minimal and a sufficient community of interest across LATA boundaries had been clearly shown. See Petitions for Limited Modifications of LATA Boundaries to Provide Expanded Local Calling Service (ELCS)

at Various Locations, 12 FCC Rcd 10646 (1997) ("ELCS Order"). These cases typically involved granting LATA modifications for extended local calling services ("ELCS"), which allow BOCs to provide a flat-rated, non-optional local exchange service within an area that shares a community of interest and straddles a LATA boundary line. The MFJ Court "strictly limited its grant of LATA boundary waivers to those that permitted traditional local service between nearby local exchanges, and never condoned waiver requests that could permit a 'piecemeal dismantling' of the prohibition on the BOCs' provision of interLATA service." US West LATA Order, 12 FCC Rcd at 4752. In other words, all "modifications" allowed simple and easily recognizable non-optional local exchange service. ELCS Order at paras. 6-8.

The FCC's Limited Modifications

Since the 1996 Act was enacted, the FCC has taken up the mantle of approving extremely limited BOC requests for LATA boundary modifications. In its denial of the US West petition, the Common Carrier Bureau determined that "[n]othing has changed since the passage of the 1996 Act to justify the 'piecemeal dismantling' of the LATAs prohibited by Judge Greene." US West LATA Order, 12 FCC Rcd at 4752.

In the ELCS Order, for example, the full Commission granted 23 requests for LATA boundary modification to permit calls between the ELCS exchanges to be treated as intraLATA. In each instance, however, the Commission balanced a variety of factors, including the small number of access lines, small volume of traffic, the "inconsequential" impact on interexchange carriers, the community's interest in obtaining traditional local service, the lack of anticompetitive impact, and the lack of reduction of a BOC's motivation to open its local market to competition. ELCS Order at para. 14. The Commission called this a "limited purpose" modification request, which it concluded was permissible under section 3(25). Id. at para. 16-17.

The only other case worth mentioning is a recent Common Carrier Bureau decision regarding 20 potential ISDN customers located in Hearne, Texas. Southwestern Bell Telephone Company Petition for Limited Modification of LATA Boundaries to Provide Integrated Services Digital Network (ISDN) at Hearne, Texas, File No. NSD-LM-97-26, Memorandum Opinion and Order, 13 FCC Rcd 13166 (1998) ("Hearne Decision"). The Bureau made clear in the Hearne Decision that it only approved a LATA boundary adjustment for "a limited purpose," based on a careful balancing of factors -- the community's demonstrated need versus the potential harm from anticompetitive BOC activity. Hearne Decision, 13 FCC Rcd at 13172. As the Bureau indicated in the Hearne Decision, the "potential for harm is minimal" because the LATA boundary adjustment would affect so few consumers and competitors. Id.

The Commission should treat with great skepticism BOC requests for LATA modifications allegedly needed to provide a particular kind of intraLATA service

that allegedly cannot be efficiently provided without the modification. In particular, the Hearne Decision has virtually no relevance to applications concerning xDSL service. Whether or not in truth it would have cost SWB in excess of \$2 million to modify its Hearne, Texas switch to provide ISDN service, the cost of installing a small "edge" switch in any central office capable of handling XDSL service is substantially less. Further, given that xDSL electronics must attach directly to the copper portion of the loop, and that xDSL service works only on short copper loops, it is not likely often to be the case that it would be possible -- never mind necessary -- to provide a customer in one LATA xDSL service through equipment installed in an adjacent LATA.

Finally, in this regard, the modification allowed in the Hearne Decision was determined to be necessary because SWB allegedly could not make efficient use of a switch in a LATA adjacent to its customers' LATA without incidentally extending the customers' calling area for ISDN service.² This fact led SWB to request a LATA modification in the first instance. But it is not typically necessary to modify LATAs simply to enable a customer located in one LATA to make use of intraLATA telephone facilities that happen to be physically located in another LATA.

Thus, the Hearne Decision does not set out a rule of general application. Rather, it addresses the extremely rare situation in which the Commission found that, in order to provide a required intraLATA service to a small number of customers, it would be prohibitively expensive for a BOC to upgrade a switch in a customer's LATA, and extremely inefficient to use equipment in an adjacent LATA without incidentally providing interLATA service. This ruling hardly supports the BOCs' desire to provide any and all "advanced services" across LATA boundaries within a state.

Given this impressive background, it is no surprise that the Commission's Advanced Services Order and NPRM expressly rejected BOC pleas for the creation of nation-wide "data LATAs." Any such large-scale changes in LATA boundaries, the Commission concluded, would "effectively eviscerate section 271 and circumvent the procompetitive incentives for opening the local market to competition." Advanced Services Order at para. 82. Instead, the Commission sought comment on whether and on what terms it should grant "incidental" relief "that would allow BOCs to carry packet-switched traffic across current LATA boundaries for the purpose of providing their subscribers with high-speed connections to nearby network access points." Advanced Services NPRM at para. 193. The Commission, in other words, questioned whether a relatively small class of customers would be benefited if the BOCs in limited

² SWB alleged that the only way to use the Austin switch as it wished to without incidentally extending the Hearne LATA would be to assign a new NXX code within the Austin switch, and further alleged that such an assignment "would [not] be an efficient use of limited numbering resources. Hearne Decision, 13 FCC Rcd at 13172-173.

instances would be allowed to offer interLATA data transport services. As demonstrated in its November 9 ex parte, MCI WorldCom believes the record evidence is clear and unrefuted that no such relief is necessary.

The Same Law And Policy Prohibiting Premature BOC Provision Of InterLATA Services Applies To BOC Affiliates

It has been suggested that an advanced services affiliate utilized by the BOCs should be granted interLATA relief, such as a statewide LATA, as an incentive for the BOCs to utilize the separate affiliate approach in the first place. This deal is infirm on many counts. First and foremost, section 271 applies to any and all BOC affiliates, just as much as it applies to the BOC itself. As discussed above, the language of Section 271(a) and (b)(1) governs whether and when the BOCs, and any of their affiliates, will be able to provide interLATA services.

Second, attempting to incent the BOCs to utilize the advanced services affiliate approach is a solution in search of a problem. There is nothing in the record to support the notion that the BOCs must be prodded to provide advanced services via deregulated affiliates. More importantly, the fundamental premise behind the proposal -- that BOC provision of advanced services through deregulated affiliates somehow is in the public interest -- is entirely unproven in the record and, in MCI WorldCom's view, completely unfounded. The ILECs and CLECs already are busily deploying DSL and other advanced services to consumers. Further, no party has bothered to refute the fundamental facts established in MCI WorldCom's November 9th ex parte that the competitive market is doing more than its part to bring advanced interLATA services to all consumers.

Finally, the Commission did not present the statewide LATA boundary modification proposal in the Advanced Services NPRM. The NPRM only sought comment on (1) the scope of the "incidental interLATA services" provision, (2) LATA boundary modifications for elementary and secondary schools, and (3) the criteria to be used to evaluate "limited" LATA boundary modification requests to allow the BOCs to provide high-speed connections across LATA boundaries in certain rural areas. NPRM at paras. 191, 192, 193-194. Across-the-board, statewide LATA boundaries, solely as an incentive for the BOCs to utilize affiliates, was not part of the equation.

The BOC Ex Partes Provide No New Policy Or Factual Grounds To Demonstrate Any Compelling Need For InterLATA Relief

None of the comments received in response to the Advanced Services NPRM provide any reason for granting "targeted" relief to allow BOCs to carry packet-switched traffic to a network access points across a LATA boundary. See Advanced Services NPRM at para. 196. Notably, not a single BOC -- in initial comments, reply comments, or subsequent ex parte filings -- provided the Commission with what it

asked for: factual information or legal arguments relevant to a proposed rule allowing limited "targeted" LATA relief. No BOC, or any other commenter, submitted any material suggesting there are customers in any LATAs that must rely on BOC interLATA data transport to give them high-speed connections to nearby network access points ("NAPs"). This is no surprise. As MCI WorldCom demonstrated conclusively in its November 9 ex parte, in virtually all LATAs there is a thriving competitive market for data transport. No consumers lack high-speed access simply because their BOC is not legally entitled to provide interLATA transport.

Rather than provide the information or legal argument requested by the Commission, the BOCs continue to press the Commission to misinterpret the LATA definition broadly to eviscerate the limitations imposed elsewhere in the Act. For example, Bell Atlantic continues to demand a nationwide "data LATA" that would have the effect of freeing the BOCs entirely from the requirements of sections 271 and 251. See Bell Atlantic Ex Parte Letter, dated December 1, 1998. However, Bell Atlantic never acknowledges that the Commission already has ruled against the BOCs on this issue, and consequently it does not address the merits of the Commission's conclusion that the Act plainly bars the relief it requests.³ In general, the BOCs do not make any mention of more targeted LATA relief, nor do they present the salient facts that would suggest the need for any relief of any kind.

Ameritech is only slightly more modest in its request for statewide LATA relief. See Ameritech Ex Parte Letter, dated December 9, 1998. This proposal, too, ignores the Commission's Advanced Services Order and NPRM, and declines to request limited "targeted" LATA relief, or to defend the need for any such relief. Instead, Ameritech proposes that the Commission adopt statewide data LATAs which a BOC could use if it establishes a separate advanced services subsidiary and complies with Commission loop and collocation rules.⁴ In other words, Ameritech would have

³ Bell Atlantic notes only that its proposal would at least leave voice services subject to section 271. Leaving aside the fact that voice can be, and is being, carried over a packet networks, it is no answer to the law to claim that at least some regulated services would, for the time being, remain subject to regulation under sections 251 and 271. Section 271 makes no such distinction between types of regulated telecommunications services, and section 10(d) forbids the Commission from forbearing to enforce the requirements of section 271 with respect to any service.

⁴ Ameritech also claims that its proposal is limited because it would cross LATA boundaries "only" to (1) achieve access to packet switches within the state, (2) provide transport from a packet switch to the closest NAP, or (3) provide in-state transport of data services for customers with multiple in-state locations. Ameritech Ex Parte Letter, at 3. Of course, these are hardly "limited" modifications; they entail a potentially enormous number of uses, and grant the BOCs a substantially enhanced

the Commission re-write section 271 as it applies to so-called "advanced services," and would eliminate the full fourteen-point checklist and public interest test that are part of the statute that Congress actually enacted. Of course, as explained above, Ameritech's proposal is entirely inconsistent with both sections 10(d) and 271 of the 1996 Act. In fact, after stating flatly that its proposal is consistent with section 271, Ameritech defends a very different proposition: that its proposed LATA changes "would not materially affect BOC incentives to pursue section 271 relief." *Id.* at 3. Putting aside the fact that Ameritech has yet to file a satisfactory section 271 application, this argument is entirely specious. Should the BOCs receive the authority to transport "advanced services" (whatever those are) across individual states, the BOCs will have that much less incentive to comply with section 271 for those and other local services. Further, Ameritech's view is beside the point; after all, section 271 by its terms grants interLATA relief for all BOC telecommunications and information services only if all of fourteen checklist items are fully satisfied, and if the BOC can prove further that entry is in the public interest. This provision does not contemplate or allow entry for some classes of services on a much lesser showing.

It is instructive that no BOC has suggested that the kind of "targeted" interLATA relief proposed by the Commission in its Advanced Services NPRM would address the concern expressed by U S WEST that "many rural areas do not have high-capacity network access points." Advanced Services NPRM at para. 193. No BOC has provided "empirical data on the number and location of LATAs that do not contain high-speed network access points." *Id.* Instead, the data collected and submitted by MCI WorldCom in its November 9 ex parte suggests that customers in at most only a small handful of LATAs would benefit from the kind of limited relief proposed by the Commission. Because no BOC has suggested anything different, the FCC should conclude that the only reasons for special rules governing LATA modifications for advanced services are the reasons proposed by the BOCs for broadscale nationwide or statewide LATAs -- to avoid the binding requirements of sections 10(d) and 271.

Given that the BOCs' interLATA relief proposals are flagrantly unlawful, their claims that they would in any event promote deployment of advanced services are irrelevant. Those claims, however, are every bit as specious and unpersuasive as BOC claims that the Commission is free to ignore the plain terms of the Act.

For example, Ameritech notes that if a customer is served through a central office that does not have a packet switch, but a nearby BOC central office across a LATA boundary has such a switch, the most sensible way to serve that customer would be to transport its data traffic across LATA boundaries and connect it to its central office equipped with the packet switch. Ameritech insists that such

ability to provide packet-switched service across LATA boundaries in states with multiple LATAs.

a scheme will in particular help rural customers served off of smaller central offices in which it is not likely to become economical to install a packet switch. In other words, Ameritech argues that in order efficiently to provide intraLATA packet-switched service, it should be allowed to configure its network in a way that only incidentally happens to require the BOC to engage in interLATA telecommunications. While the customer's service area for advanced services is expanded beyond its LATA, in Ameritech's view that is merely an irrelevant and unimportant byproduct of the way its network is most efficiently configured.


Ameritech's proposal is typical of what one has come to expect from the BOCs, in at least two respects. First, the proposal is entirely unsupported. No effort is made to buttress the proposition that smaller central offices cannot efficiently support inexpensive "edge" packet switches. No effort is made to support the proposition that interLATA relief is required to assure that customers can purchase interLATA transport. In effect, no effort is made to quantify the claim that there is really a "problem" that needs to be addressed. Despite the Commission's repeated request for factual information that would help it formulate sound policy in this area, Ameritech and the other BOCs have done no more than insist without any factual support that the provisions of the 1996 Act need to be ignored in order that their customers can be served more efficiently.

Second, Ameritech and the other BOCs ignore the fact that the "problem" they would address is largely illusory. There is already an active competitive market in interLATA data transport. The way for the BOCs to join in this competitive market to provide interLATA service to their local customers is not to ask the Commission to gut the Act, but for the BOCs to comply with its terms. If the most efficient way to serve a particular customer requires interLATA transport, there are a variety of carriers in almost every location in the country which can provide that service today if the BOCs would lease them loops as they are required to do by law. As MCI WorldCom described in its November 9 ex parte, there are IXCs in virtually every LATA in the country competing to provide interLATA transport. No BOC has provided a scintilla of evidence that customers will not be served unless the BOCs are able to join in this competitive market by evading the requirements of section 271. Indeed, the BOCs have not even committed to providing service in underserved communities even if they were free to provide interLATA service.

In sum, the legal and regulatory precedent, the policy grounds, and the factual basis all point to the same result: no BOC, or BOC affiliate, can provide any type of in-region interLATA services, or receive more than extremely limited LATA boundary modifications, prior to receiving full authority to provide in-region interLATA services under section 271 of the Act. Moreover, special LATA boundary modification rules devised exclusively for "advanced services" would serve no useful purpose, except to extend the BOCs' local monopoly to the advanced services marketplace as

well. The only way to assure ubiquitous provision of advanced services is for the Commission to compel the BOCs to honor their statutory obligations to unbundle their local networks, and to apply section 271 as Congress intended.

Sincerely,

A handwritten signature in black ink, appearing to read "R. S. Whitt", written over a horizontal line.

Richard S. Whitt
Senior Policy Counsel
MCI WorldCom

cc: Commissioner Susan P. Ness
Commissioner Harold W. Furchtgott-Roth
Commissioner Michael K. Powell
Commissioner Gloria Tristani
Kathy Brown, Chief of Staff, Chairman Kennard
Larry Strickling, Chief, Common Carrier Bureau (1919 M St., Room 500)